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under 35 U.S.C. 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter that the applicant regards as the invention.

**35 U.S.C. 112 REJECTION:**

Applicant traverses the Examiner's rejections of claims 11 and 15 and submits that the term weather signal is fully supported by the specification. For example, the term weather signal is disclosed on page 13, first paragraph in the specification.

**THE PRESENT INVENTION:**

In an embodiment of the present invention, a vehicle having a vehicle control system for enhancing vehicle performance is provided. The vehicle control system includes a "controller adapted to receive a vehicle position signal, the controller employing the position signal to determine at least one characteristic pertinent to the operation of the vehicle control system...." The control signal is received by the vehicle control system, causing the vehicle control system to tailor its performance in response thereto. A method for controlling a vehicle having a vehicle control system is also provided.

**CLAIM REJECTIONS UNDER 35 U.S.C. § 103(a):**

The Examiner indicates that Brachert discloses a vehicle control system for controlling a vehicle, including anti-lock brake system, traction control system, and stability system, and a controller coupled to those systems. Further, the Examiner points out that although Brachert does not disclose a controller adapted to receive a vehicle position signal, Tanaka overcomes this deficiency by teaching a GPS device that detects the position of the vehicle. The Examiner, therefore, finds that it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Brachert to include the teachings of Tanaka.

However, the mere fact that references can be combined or modified does not render the resultant combination obvious, unless the prior art also suggests the desirability of the combination. *In re Kotzab*, 217 F.3d 1365, 1371, 55 USPQ2d 1313,

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1318 (Fed. Cir. 2000); *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). The prior art items themselves must suggest the desirability and thus the obviousness of making the combination without the slightest recourse to the teachings of the patent or application. *In re Dance*, 160 F.3d 1339, 1343, 48 USPQ2d 1635, 1637 (Fed. Cir. 1998).

Although Tanaka discloses a navigation system using GPS to assist in navigating a vehicle, it does not motivate one skilled in the art to combine this reference with Brachert to arrive at Applicant's invention. Likewise, the Brachert disclosure does not motivate one skilled in the art to combine this reference with Tanaka to arrive at Applicant's invention. Tanaka is directed to a navigation system utilizing GPS, wherein the GPS system detects the current position of the vehicle to assess the time available for a driver to switch from automatic control to manual control (See Tanaka, column 3, lines 9-37). Neither the objective nor the effect of Tanaka is to enhance performance of the vehicle. In contrast, Brachert discloses a system that enhances performance of a vehicle by using sensors and controllers in conjunction with an anti-lock brake system, traction control device, and gearbox control device to stabilize the vehicle (See Brachert, column 12, lines 22-39). Brachert, however, makes no mention of using a GPS system, nor is there any suggestion that a GPS system would be useful to the Brachert system. Neither Tanaka nor Brachert teach or suggest a vehicle control system having a controller that *employs a vehicle position signal* to determine at least one characteristic pertinent to the operation of the vehicle control system, as stated in independent claims 1, 12, and 16.

Accordingly, since the prior art does not teach or suggest the desirability of combining the references to arrive at Applicant's invention, the applied references taken together or separately do not render Applicant's invention unpatentable under 35 U.S.C. 103(a).

In addition, dependent Claims 2-11, 13-15, and 17-21 are also believed to be patentable over Tanaka and Brachert for at least the same reasons as given above in support of Claims 1, 12, and 16 from which Claims 2-11, 13-15, and 17-21 ultimately depend.

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**CONCLUSION**


In summary, Applicant believes claims 1-21 are patentable and place this case in a condition for allowance. None of the references relied on by the Examiner show or teach the use of a GPS system to enhance vehicle performance. Therefore, allowance is respectfully requested.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (734) 302-6000.

Applicant requests that Deposit Account No. 23-1925 is charged for any further fees which may be due.

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Respectfully submitted,

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